

UNITED STATES DEPARTMENT OF
COMMERCE
NEWS

WASHINGTON, D.C. 20230

E - ~~SECRET~~ 539-1
BUREAU OF
EXPORT
ADMINISTRATION

For Immediate Release

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BXA - 08 - 97

Contact:

Susan Hofer

Eugene Cottilli

(202) 482-2721

www.bxa.doc.gov

**FREIGHT FORWARDER SETTLES CHARGES OF MAKING FALSE
STATEMENTS ON SHIPPING DOCUMENTS**

WASHINGTON- The Commerce Department today imposed a \$30,000 civil penalty on Thyssen Haniel Logistics, Inc. (Thyssen), of Atlanta, Ga., formerly known as Amerford International Corp., for allegedly preparing shipping documents that contained false information, in violation of the Export Administration Regulations (EAR).

Thyssen agreed to pay the penalty to settle the alleged violations. The Department alleged that on six occasions the Boston office of Thyssen prepared and used export control documents for the purpose of effecting exports of titanium bars from the U.S. to Germany, representing that the exports qualified for export under General License G-DEST, when, in fact, a validated license was required. At the time the alleged violations occurred, exports could be made either under an authorization (general license) that the exporter determined was available for a particular shipment under the terms of the EAR or, if no general license was available, under a specific authorization (validated license) given in writing by the Department. The Bureau of Export Administration's Boston Field Office conducted the investigation.

This is the third settlement in recent weeks involving alleged violations by a freight forwarder where a forwarder filled in "G-DEST" on an export control document without asking the exporter whether that general license was appropriate for titanium bars. The Commerce Department's Office of Export Enforcement is undertaking strong efforts to ensure that shipments are properly licensed and documented before export.

"Freight forwarders are responsible for obtaining and using accurate export license information on export control documents. When they don't, our national security and foreign policy interests may be jeopardized. They also expose themselves to penalties under the EAR," said Commerce Acting Assistant Secretary for Export Enforcement Frank W. Deliberti.

"To ensure the export control system continues to function properly, it is imperative that freight forwarders work closely with exporters and exercise due diligence when preparing export documents for presentation to the U.S. Government," Deliberti said.

Commerce's Bureau of Export Administration administers and enforces export controls for reasons of national security, foreign policy, nonproliferation and short supply. Criminal penalties, as well as administrative sanctions, can be imposed for violations of the regulations.



E-539-2

UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Thyssen Haniel Logistics, Inc.
8010 Roswell Road, Suite 300
Atlanta, Georgia 30350

Attention: Gary Elsesser
President

Dear Mr. Elsesser:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, Thyssen Haniel Logistics, Inc. (Thyssen), formerly known as Amerford International Corporation, has violated the Export Administration Regulations (61 Fed. Reg. 12734-13041, March 25, 1996, to be codified at 15 C.F.R. Parts 730-774 (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (the Act).²

Facts constituting violations:

Charges 1-6

On six separate occasions between on or about February 6, 1992 and on or about January 13, 1994, Thyssen, then known as Amerford International Corporation, prepared and used Shipper's Export Declarations or air waybills, or both, export control documents as defined in Section 770.2 of the former Regulations, for the

¹The alleged violations occurred in 1992, 1993 and 1994. The Regulations governing the violations at issue are found in the 1992, 1993 and 1994 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992, 1993, and 1994)). Those Regulations defined the conduct that BXA alleges was violated and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, to be codified at 15 C.F.R. Parts 730-774, establish the procedures that apply to the matters set forth in this charging letter.

²The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notice on August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), and extended again on August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).



purpose of effecting exports from the United States to Germany, representing that titanium bars qualified for such export under general license G-DEST. Each of those exports is described more fully on the enclosed schedule, which is incorporated herein by this reference. In fact, none of the exports were authorized under general license G-DEST, but each required a validated license. By making false or misleading statements of material fact, directly or indirectly to a United States government agency in connection with the preparation or use of export control documents, Thyssen violated Section 787.5(a)(1) of the former Regulations in connection with each of the six shipments, for a total of six violations.

Accordingly, Thyssen is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions, including any or all of the following:

Imposition of the maximum civil penalty allowed by law of \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations);

Exclusion from practice (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If Thyssen fails to answer the charges contained in this letter within 30 days after service as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Thyssen is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a settlement.

Thyssen's answer should be filed with the Office of the Administrative Law Judge/Export Control, U.S. Department of Commerce, Room H-6839, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of

Thyssen's answer should be served on the Department at the address set forth in Section 766.5(b), adding "ATTENTION: Lorie B. Whitaker, Esq." below the address. Ms. Whitaker may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee
Acting Director
Office of Export Enforcement

Enclosures

E-539-5

SCHEDULE OF VIOLATIONS
THYSSEN HANIEL LOGISTICS, INC.
formerly known as Amerford International Corporation

CHARGES	DATE (ON OR ABOUT)	COMMODITY	DESTINATION	INVOICE	BILL OF LADING/ AIR WAYBILL
1	02-06-92	Titanium Bar	Germany	30605	345939
2	02-06-92	Titanium Bar	Germany	30504	345941
3	05-11-92	Titanium Bar	Germany	32109	367904
4	09-30-92	Titanium Bar	Germany	34345	400881
5	10-21-92	Titanium Bar	Germany	34667	405707
6	01-13-94	Titanium Bar	Germany	42557	202016

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
THYSSEN HANIEL LOGISTICS, INC.)
8010 Roswell Road, Suite 300)
Atlanta, Georgia 30350,)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement is made by and between Thyssen Haniel Logistics, Inc. (Thyssen), formerly known as Amerford International Corporation, and the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), pursuant to Section 766.18(a) of the Export Administration Regulations (61 Fed. Reg. 12734-13041, March 25, 1996, to be codified at 15 C.F.R. Parts 730-774) (the Regulations),¹ issued pursuant to the Export Administration Act

¹The alleged violations occurred in 1992, 1993 and 1994. The Regulations governing the violations at issue are found in the 1992, 1993 and 1994 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992, 1993 and 1994)). Those Regulations defined the conduct that BXA alleges was violated and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, to be codified at 15 C.F.R. Parts 730-774, establish the procedures that apply to the matters set forth in the proposed charging letter and this Settlement Agreement.

of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (the Act).²

WHEREAS, BXA has notified Thyssen of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Act by issuing a Charging Letter alleging that Thyssen violated the provisions of Section 787.5(a) of the former Regulations in that, on six occasions between on or about February 6, 1992 and on or about January 13, 1994, Thyssen made false or misleading statements of material fact, directly or indirectly, to a United States government agency in connection with the preparation and use of export control documents;

WHEREAS, Thyssen has reviewed the proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed if the allegations are found to be true; it fully understands the terms of this Settlement Agreement; it enters into this Settlement Agreement voluntarily, with full knowledge of its rights, and states that no promises or representations have been made to it other than the agreements and considerations expressed herein;

WHEREAS, Thyssen neither admits nor denies the allegations contained in the proposed Charging Letter;

²The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notice on August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), and extended again on August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).

WHEREAS, Thyssen wishes to settle and dispose of all the matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Thyssen agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (hereinafter referred to as the appropriate Order);

NOW, THEREFORE, Thyssen and BXA agree as follows:

1. BXA has jurisdiction over Thyssen, under the Act and the Regulations, with respect to the matters identified in the proposed Charging Letter.

2. BXA and Thyssen agree that the following sanction shall be imposed against Thyssen in complete settlement of all alleged violations of the Act and former Regulations set forth in the proposed Charging Letter:

a. Thyssen shall pay a civil penalty of \$30,000, which shall be paid in accordance with the instructions provided, within 30 days from the date of entry of the appropriate Order.

b. As authorized by Section 11(d) of the Act, the timely payment of the penalty agreed to in paragraph 2a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted, to Thyssen. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Thyssen's export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. Thyssen agrees that, subject to the approval of the Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation: (a) any right to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) any right to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) any right to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against Thyssen in connection with any violation of the Act or the former Regulations alleged in the proposed Charging Letter.

5. Thyssen understands that BXA will make the proposed Charging Letter, this Settlement Agreement and the appropriate Order, when entered, available to the public.


6. BXA and Thyssen agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not entered by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and Thyssen agree that they may not use this Settlement Agreement in any administrative or judicial proceeding, and that neither party shall be bound by

the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

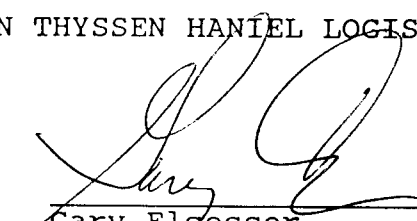
7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION THYSSEN HANIEL LOGISTICS, INC.



Mark D. Menefee
Acting Director
Office of Export Enforcement



Gary Elsesser
President

Date: 4/2/97

Date: March 24, 1997

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:

THYSSEN HANIEL LOGISTICS, INC.
8010 Roswell Road, Suite 300
Atlanta, Georgia 30350,

Respondent

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Thyssen Haniel Logistics, Inc. (Thyssen), formerly known as Amerford International Corporation, of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (the Act),¹ and the Export Administration Regulations (61 Fed. Reg. 12734-13041, March 25, 1996, to be codified at 15 C.F.R. Parts 730-774) (the Regulations),² based on allegations that, on six occasions between on or about February 6, 1992 and on or about January 13, 1994,

¹The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notice of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), and extended again on August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).

²The alleged violations occurred in 1992, 1993 and 1994. The Regulations governing the violations at issue are found in the 1992, 1993 and 1994 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992, 1993 and 1994)).

Thyssen made false or misleading statements of material fact, directly or indirectly, to a United States government agency in connection with the preparation and use of export control documents; and

BXA and Thyssen having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby BXA and Thyssen have agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED,

FIRST, that Thyssen shall pay a civil penalty of \$30,000, which shall be paid to the Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, as authorized by Section 11(d) of the Act, the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted, to Thyssen. Accordingly, if Thyssen should fail to pay the civil penalty in a timely manner, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of Thyssen's export privileges for a period of one year from the date of entry of this Order.

THIRD, that the proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public.

This Order is effective immediately.

Frank W. Deliberti

Frank W. Deliberti
Acting Assistant Secretary
for Export Enforcement

Entered this 2nd day of April, 1997.